United Nations S/PV.5292

Security Council

Sixtieth year

Provisional

5292nd meeting

Tuesday, 25 October 2005, 10 a.m.

New York

President:	Mr. Motoc	(Romania)
Members:	Algeria	Mr. Baali
	Argentina	Mr. Mayoral
	Benin	Mr. Idohou
	Brazil	Mr. Sardenberg
	China	Mr. Wang Guangya
	Denmark	Ms. Løj
	France	Mr. De La Sablière
	Greece	Mr. Vassilakis
	Japan	Mr. Oshima
	Philippines	Mr. Baja
	Russian Federation	Mr. Denisov
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United Republic of Tanzania	Mr. Mahiga
	United States of America	Mr. Bolton

Agenda

The situation in the Middle East

Letter dated 20 October 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/662)

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05-56783 (E)

The meeting was called to order at 10.35 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Letter dated 20 October 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/662)

The President: I should like to inform the Council that I have received letters from the representatives of Lebanon and the Syrian Arab Republic, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

On behalf of the Council, I extend a warm welcome to His Excellency Mr. Boutros Assaker, Acting Secretary-General of the Lebanese Ministry of Foreign Affairs and Emigrants.

At the invitation of the President, Mr. Assaker (Lebanon) and Mr. Mekdad (Syrian Arab Republic) took seats at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Detlev Mehlis, Commissioner of the United Nations International Independent Investigation Commission.

It is so decided.

I invite Mr. Mehlis to take a seat at the Council table.

I welcome the presence of the Secretary-General, Mr. Kofi Annan.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2005/662, which contains a letter dated 20 October 2005 from the Secretary-General, transmitting the report of the United Nations International Independent Investigation Commission.

I also draw the attention of Council members to document S/2005/651, which contains a letter dated 14 October 2005 from the representative of Lebanon addressed to the Secretary-General.

I now give the floor to Mr. Detlev Mehlis, Commissioner of the United Nations International Independent Investigation Commission.

Mr. Mehlis: The terrorist attack of 14 February 2005 that claimed the lives of Mr. Rafik Hariri and 22 others was a landmark event in the history of Lebanon. It was a tragedy that came as the country was beginning to heal the wounds of a long civil war. Allow me first to pay tribute to the memory of all the victims and acknowledge the suffering of the bereaved families.

On 7 April 2005, the Security Council adopted resolution 1595 (2005), whereby the United Nations International Independent Investigation Commission (UNIIIC) was set up. The Commission was designed to be a supportive mechanism for the Lebanese judicial and security authorities to carry forward the investigation into the assassination.

Before going into the details of this unique and unprecedented experience — by United Nations standards — I would like to express my sincere thanks to the Secretary-General and to the Security Council members, who, by appointing me, have shown me and my team trust and confidence, upon which I have drawn throughout the five months I have spent in Lebanon and which has been a great source of comfort and encouragement. My heartfelt thanks also go to the Lebanese people and Government for their unwavering support and full confidence.

The Commission, which was established in full agreement with the Government of Lebanon, became fully operational on 16 June 2005. In keeping with the letter and the spirit of resolution 1595 (2005), the Commission and the Government of Lebanon signed a memorandum of understanding outlining the modalities of cooperation between the two parties.

Having set the framework of work and cooperation early on, the Commission has been able to

move ahead with its investigation. The earlier Fact-finding Mission led by Mr. Peter FitzGerald and the accompanying files were a valuable source of information during the early phase of our work. In addition, we relied to a large extent on the 8,000-page Lebanese case docket handed over to the Commission in order to understand the dimensions of the case, to draw up a preliminary list of potential witnesses and suspects and to focus on possible leads to pursue.

To the credit of the Lebanese judicial and security authorities, they have come a long way in terms of their ability to pursue the investigations. Some problems of public trust remain. More recently, they have shown growing levels of professionalism and competence. They have been helped in this by the presence and active support of the United Nations. Undoubtedly, one of the main reasons for this positive change is the setting aside of past constraints and the stepping down of the old guard. On the other hand, the close interest and valuable support shown by the international community in Lebanese affairs has been encouraging.

The Commission established close working links with the Lebanese authorities, and channels of communication were kept open with all sides. With the political authorities, arrangements were made to facilitate our work and to give the Commission the moral and physical backing it most needed. With the judicial authorities, regular meetings were held to exchange updated information, files, statements and new evidence. Plans were agreed for the upcoming phases of the investigation, and lists of witnesses were submitted to the Lebanese authorities for summoning for questioning. With the security authorities, raid and search operations were conducted in tandem. A striking example was the joint UNIIIC-Internal Security Forces (ISF) operation carried out on 30 August 2005 for the house raid and search of former senior security officials, who were later arrested by the Lebanese authorities.

Thanks to the backing and active engagement of the Lebanese authorities, we have been able to integrate our work together, as envisaged by the Security Council in April. Of utmost importance has been the valuable assistance extended by other organizations of the United Nations family, as well as by other international organizations, such as Interpol. Several United Nations Member States provided expertise that contributed in no small measure to shedding light on major areas of the investigation. On behalf of all the members of the Commission, I wish to convey to all of them my sincere thanks and profound gratitude.

On 19 October 2005, I submitted the Commission's report to the Secretary-General. Our modus operandi, our findings and conclusions are set out in that document, which is before you today at this important session of the Council. I do not wish to burden you by repeating the content of that report or with further details. However, there are certain elements and facts that I wish to stress at this time.

Over 130 days, 30 investigators from 17 countries interviewed more than 400 witnesses and suspects, reviewed approximately 60,000 documents and produced more than 16,500 pages of documents. More than 450 pieces of evidence have been collected. Some main lines of investigation have been identified and leads established.

However, for such a multidimensional and complex case as the one under review, the investigation cannot be considered complete as of now. More time should be allotted to further investigate our findings and look into emerging leads. I would note that it is entirely normal that a case of this type takes many months, if not years, to cover all aspects of investigation with certitude and to prepare a case for prosecution.

The Lebanese Government recently asked for an extension of the Commission's mandate until 15 December. As the extension has been granted, the Commission's modus operandi will remain unchanged — that is, the Commission will maintain the same level of cooperation with the Lebanese authorities and, wherever possible, will help to enhance it. The Commission will re-interview a number of witnesses and interview new ones as the investigation unfolds. It will complete its examination of material evidence obtained recently. And it will endeavour to provide the Lebanese authorities with any technical assistance they might require.

Moreover, the Commission is of the view that this would provide yet another opportunity for the Syrian authorities to show greater and meaningful cooperation and to provide any relevant substantial evidence on the assassination. For this reason, the Syrian authorities may wish to carry out, on their part, their own investigation into the assassination of Mr. Hariri in an open and transparent manner. That would enable the

Commission to fill in the gaps and to have a clearer picture about the organizers and perpetrators of the 14 February terrorist act.

As the Commissioner of UNIIIC, I am also responsible for the safety and security of my staff. Therefore, since the Commission will continue its work until 15 December, the safety and security of its members must be a priority. Ever since the Commission started its work in Lebanon, in addition to its own security team, the Lebanese security forces — namely, the army and the police — have played a major role in ensuring the protection of its members and headquarters. They took exceptional security measures, for which I wish to thank them on behalf of all the Commission's members.

However, it should be noted that despite all the precautionary measures, the level of risk, which was already high, will further increase, particularly after the issuance of the report. I would also add that the Commission has received a number of threats that were deemed, in the assessment of our security personnel, to be credible.

In conclusion, allow me to reiterate that the total number of investigators who have served in the Commission was 30, coming from 17 different United Nations Member States. The drafting team was composed of members representing eight different nationalities. It has been of particular importance to me to maintain a geographical balance in the teams in order to enhance the Commission's credibility.

Finally, if and when the overall investigation is completed, it will be up to the Lebanese authorities to seek the way ahead and determine the nature and location of any judicial mechanism to be set up. In the meantime, the Lebanese judicial and security authorities, who have shown good will and demonstrated a growing ability to handle the case, would benefit from all the legal and technical support the international community could provide, either bilaterally or through the United Nations system.

The President: I now give the floor to His Excellency Mr. Boutros Assaker, Acting Secretary-General of the Ministry for Foreign Affairs and Emigrants of Lebanon.

Mr. Assaker (Lebanon) (*spoke in Arabic*): Mr. President, at the outset, I would like to thank you for inviting me to address the Council on behalf of Lebanon. I also wish to express our thanks to the Security Council for its concern at and close follow-up of the terrorist crime that took place on 14 February 2005, which resulted in the martyrdom of former Prime Minister Rafik Hariri, parliament member Basil Fleihan and several others.

This crime threatened Lebanon's security and stability and targeted a figure who had played a major role in its reconstruction and renaissance after years of war. The Lebanese people and their Government were united in condemning this crime and showed determination and persistence in uncovering all its aspects and in punishing its perpetrators. In this context, we are grateful that the Security Council responded favourably to Lebanon's unanimous request by forming the United Nations International Independent Investigation Commission, as called for in its resolution 1595 (2005).

Lebanon expresses its appreciation to the International Investigation Commission and to its Head, Mr. Detlev Mehlis, for the important work performed and for the great efforts deployed, which have culminated in the report before us. This report constitutes a solid basis that will help complete the requested investigation by revealing all aspects of this terrorist crime. It will establish justice by punishing the criminal murderers, whoever and wherever they are.

In this regard, we welcome the extension of the mandate of the Commission to 15 December 2005, and we reaffirm the continued cooperation of the State of Lebanon and all of its concerned institutions in order to attain the noble objective to which we all aspire. Lebanon is pleased with the contents of the Commission's report pertaining to the role played by the Lebanese judicial and security institutions, underscoring the positive cooperation of those institutions with the Commission throughout the various stages of the investigation. We are of the view that strengthening the performance of these institutions is a crucial step in the reform process currently being undertaken by the Government of Lebanon. In this context, the Government requests the support of brotherly and friendly States to help this reform process.

Lebanon calls on all parties concerned to cooperate sincerely and effectively with the International Independent Investigation Commission, in compliance with Council resolution 1595 (2005).

Uncovering the complete and absolute truth and punishing all the criminal murderers, wherever they are, corresponds to the aspirations of the Lebanese people, as expressed by the Government of Lebanon, with the support of the international community.

At the same time, the Lebanese Government, reflecting the convictions of the Lebanese people in all their policies, affirms that establishing justice by uncovering the truth and punishing all the murderers will help to enhance stability and security in Lebanon and throughout the region. This is a matter of great importance and concern for us.

Finally, Lebanon would like to thank those brotherly and friendly States that have provided support at this critical stage and continue to do so. Lebanon also thanks the Security Council and Secretary-General Mr. Kofi Annan for their continued follow-up of the Commission's work and their interest in the situation in Lebanon. We also reiterate our thanks to the International Independent Investigation Commission and to its Head for their important and promising work. We hope that it will continue and that it will contribute to the establishment of justice, which remains our primary demand.

The President: I now give the floor to the representative of the Syrian Arab Republic.

Mr. Mekdad (Syrian Arab Republic) (*spoke in Arabic*): First of all, Mr. President, I would like to congratulate you upon your assumption of the presidency of the Security Council this month. I wish you all success in the discharge of your responsibilities. I would also like to express our appreciation for the efforts made by your predecessor, Ambassador Baja, the Permanent Representative of the Philippines, in conducting the business of the Council last month. I would like to join you in welcoming the Secretary-General, Mr. Kofi Annan, who is with us in this meeting.

Allow me to express my gratitude to you, Mr. President, for giving me the opportunity to address the Security Council before its important deliberations on the report of the International Independent Investigation Commission. At the outset, I would like to assure those present here that what I will say expresses the truth as seen by the leadership and the people of Syria. I also reiterate our full faith in the role of the United Nations and our total respect for its resolutions.

The heinous crime that took the life of Premier Hariri targeted the unity and stability of Lebanon. It also targeted the Syrian sacrifices for Lebanon and its status in both Lebanon and the region. Based on this, Syria, when informed of the crime, reaffirmed that finding the culprits and those who backed them is a Syrian imperative as much as it is a Lebanese imperative.

I would also like to point out that this dastardly act has led to an escalation of tension in the region, particularly because in some quarters, either on the basis of a suspect or premeditated scheme or out of bad faith, this crime has been used in a despicable manner in order to fan the flames of hostility against Syria and to increase accusations against it.

It is indeed strange that every crime committed has a number of suspects, except this particular crime for which unfortunately only one possibility has been advanced, involving an accusation against Syria, levelled even before the body of Mr. Hariri was laid to rest.

I will not lay out for the Security Council a history of the relations between the peoples of Syria and Lebanon and our countries. However, I will say briefly that these two independent Arab States have been linked throughout history by the ties of neighbourliness, kinship, aspirations and mutual concerns. In that regard, Syria was in a unique position to come to Lebanon's aid when, in 1975, a destructive civil war erupted and tore that country apart and destroyed the role of its institutions, its army and its national fabric. The end of the civil war and return to normalcy could not have been achieved without huge sacrifices, namely at least 13,000 Syrian military personnel who made the ultimate sacrifice while extinguishing the fires of the civil war in Lebanon.

The security, stability, independence and sovereignty of Lebanon have always been in the forefront of Syria's concerns. In order to achieve them, Syria has cooperated with all loyal sons of Lebanon, including the late Prime Minister Rafik Hariri, who always supported the role of Syria in Lebanon and always gave expression to that, both when he was in power and when he was not. He always expressed his faith in the role of Syria and his appreciation for its assistance, even doing so just a few minutes before he was assassinated.

This heinous crime runs counter to all the principles that Syria upholds and clearly is against Syrian interests.

Allow me to make a few comments on the report introduced by Mr. Mehlis a few moments ago (S/2005/662). In view of the fact that every paragraph of the report deserves a comment to refute its content, I will put our remarks before you in brief in the hope that Council members will take them into account during its consideration of the report in subsequent consultations.

First, I would like to point out that the report is clearly influenced by the political climate prevailing in Lebanon after the assassination of former Prime Minister Hariri. That is clearly evident in the second chapter of the report, entitled "Background". In paragraphs 25 and 26 and what follows in that chapter, the report examined the structure of Syrian-Lebanese relations and their ramifications on the Lebanese arena.

Secondly, it is indeed regrettable for us to read in the report the Commission's strange hypothesis that:

> "Given the infiltration of Lebanese institutions and society by the Syrian and Lebanese intelligence services working in tandem, it would be difficult to envisage a scenario whereby such a complex assassination plot could have been carried out without their knowledge." (*S/2005/662, para. 216*)

On that basis, the report can be seen to accuse Syria. But, then, what about the major terrorist crimes that were, regrettably, carried out on 11 September 2001 in New York, on 11 March 2005 in Madrid, and on 7 July 2005 in London — as well as the many other terrorist acts that have been carried out — despite the fact that all those countries have very strong and highly effective intelligence and security authorities? Again, there is a hypothesis in paragraph 124, that

> "There is probable cause to believe that the decision to assassinate former Prime Minister Rafik Hariri could not have been taken without the approval of top-ranked Syrian security officials and could not have been further organized without the collusion of their counterparts in the Lebanese security services." (Ibid., para. 124)

However, that is a charge that could be levelled against the security service of any country in the world on whose territory a terrorist crime or act has taken place.

In later paragraphs, among other things, the report bases its conclusions on the wiretapping of former Prime Minister Hariri by the Lebanese security service. However, the report also mentions, and then summarily dismisses, another hypothesis: the possibility that an unknown, third party carried out a wiretap.

Thirdly, the report's conclusions, which point the finger at Syria, depend completely on the credibility of the testimony of people with strongly declared political antipathy to Syria. At the same time, the report casts doubt on the credibility of the testimony of Syrian officials.

Fourthly, the report contains the testimony of three persons, only one of whom is identified. He is a forger and a swindler, and he has been previously convicted by both the Lebanese and Syrian judicial authorities. In addition, the three sets of testimony contradict each other, and thus they lack the necessary credibility to be relied upon.

Fifthly, the report, in both form and content, accuses my country before the investigation has been completed. That can be seen by the results and conclusions drawn under the chapter entitled "Conclusions". The Commission admits, however, that it must continue its investigations in a number of areas in order to identify the perpetrators of this criminal act. I am pleased that, in the preface to the report, Mr. Mehlis refers to the need to continue investigations. The Commission further states that the investigation still needs a considerable amount of time. In paragraph 20, the report states:

> "the investigation of such a terrorist act with multifaceted international dimensions and their ramifications normally needs months (if not years) to be completed so as to be able to establish firm ground for a potential trial of any accused individuals". (Ibid., para. 20)

Here, I would like to step back and address those who are in such a hurry to pass judgement, to adopt resolutions, to impose measures and to mobilize members of the Security Council in support of their extremist position. I wonder what their real objectives are? I am certain that they have nothing to do with

uncovering the truth, which is the common objective of both Syria and the international community.

The report accuses Syria of not having sufficiently cooperated with the Commission. That accusation does a great injustice to Syria. Syria has sent letters to the Commissioner of the Investigation Commission, informing him of its readiness to cooperate. Syria sent a representative to Geneva to meet with the Commissioner at a time of his choosing, with various dates suggested before the issuance of the procedural report. On the basis of that meeting, the Commissioner and one of his assistants visited Syria on 12 September 2005. During that visit, procedures were agreed on for those whom the Commission wished to interview. However, paragraph 34 of the report states that the Syrian Authorities refused to have the Commission interview those individuals in a third country. It goes on to report that each interview was conducted in the presence of a representative of the Syrian Ministry of Foreign Affairs, one interpreter, two note takers and additional persons whose affiliations were not identified. In paragraph 35, the report concludes that the lack of cooperation of the Syrian Government with the Commission has impeded the investigation and made it difficult to follow leads established by the evidence collected from a variety of sources. That is an extremely strange statement, as it runs counter to the agreement made with the Commissioner of the Investigative Commission.

Syria offered for the meetings to be held in any place on Syrian territory to be chosen freely by the Commission. The Commission expressed its wish to have the interviews take place near the Syrian-Lebanese border and that was precisely what happened. The Commission could have rejected that arrangement. Concerning the presence of a representative of the Ministry of Foreign Affairs at the interviews, the representative in question was a lawyer and was present in that capacity. Mr. Mehlis did not object to the representative's presence. He could have objected to that and his request would have been honoured. As for the presence of a note taker, the note taker was present at Mr. Mehlis's request, so that the witness could read the record of their testimony and sign it in Arabic. As for the presence of other persons referred to in the report, the Commission must identify them, because the place where the interviews took place was under United Nations security control.

Following those meetings and interviews, one of the investigators informed us on 22 September that the group would like to come back and hear from other witnesses whose names were mentioned during the interviews. Syria agreed to that request, but the Commission has not returned to Damascus. It should be recalled that the Commission contacted the Legal Adviser to the Ministry of Foreign Affairs for more information in order to complete its investigation after leaving Damascus. Syria provided the Commission with the answers requested at the time. All of which proves that Syria has fully cooperated with the Commission and therefore refutes the accusation that it failed to do so.

In paragraph 16 of its report, the Commission complained that the media had a tendency to continuously publish rumours and speculation. Syria has had reason to complain about the media campaign against it because of the leaks from the Commission and from certain quarters of the United Nations. Moreover, we had thought that the Commission was committed to the principle of confidentiality in carrying out its investigation. However, that principle was repeatedly violated before the writing of the report, in addition to the fact that the report itself was leaked to the media before it was given to us.

We must also recall that an agreement was reached with Mr. Mehlis and that the Commission had sufficient time to review the agreement and to request that it be amended between the two parties in a manner consistent with the Commission's approach. However, nothing of the sort was put before us.

During the past period, Syria has cooperated faithfully and sincerely with the International Independent Investigation Commission. As we have stated previously, that stems not only from Syria's commitment to international legality, but also from its serious desire to arrive at the truth. Here, I should like to reaffirm before the Council that during the coming period, Syria will continue to cooperate with the Commission and will provide it with any information that can assist it in concluding its investigation and in arriving at the truth.

His Excellency Mr. Bashar Al-Assad, President of the Syrian Arab Republic, has stated that Syria is innocent of this crime and is ready and willing to pursue and prosecute any Syrian conclusively implicated in it. Syria is the main victim of this crime,

in particular because the relations between Syria and the late Prime Minister Hariri had been characterized by cooperation and respect since the mid-1980s. That fact was personally reaffirmed by the Prime Minister in an interview with the Lebanese newspaper As-Safir on 14 February 2005, minutes before he was assassinated.

Finally, in its report the International Independent Investigation Commission acknowledged that it has an extensive programme of work and that it considers all persons — including those against whom it has levelled accusations — to be innocent until proven guilty. Therefore, the Commission should not have accused or cast doubt on anyone; it should have limited itself to submitting a procedural report pending the completion of its investigation into the various areas referred to in its report, and it should have provided evidence for its accusations.

We look forward to the Security Council's consideration of the report in the light of the points we have just raised. Those points have also been raised by hundreds of specialists, jurists and politicians in many countries. Lebanon and the region from which we come need tranquillity and stability, not further destabilization and suffering.

In conclusion, I reiterate that Syria will spare no effort to achieve the stability of Lebanon, because that is at the heart of our strategy and of the aspirations of the two brotherly Syrian and Lebanese peoples.

The President: I thank the representative of the Syrian Arab Republic for the kind words he addressed to the Chair.

There are no further speakers inscribed on my list. In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion on the subject.

The meeting rose at 11.15 a.m.